

AMENDED IN SENATE APRIL 20, 2010

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1476

Introduced by Senator Padilla

February 19, 2010

An act to add Sections 387.7 and 714 to, and to repeal Section 393 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1476, as amended, Padilla. Public utilities: customer privacy: advanced metering infrastructure.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. The existing Public Utilities Act requires every public utility to furnish and maintain adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.

Existing law requires the commission to conduct a pilot study of certain customers of each electrical corporation to determine the relative value to ratepayers of information, rate design, and metering innovations using specified approaches, but prohibits this data from being used for any commercial purpose, unless authorized by the customer.

This bill would repeal the provisions relating to the study, and would require an electrical corporation, gas corporation, or local publicly owned electric utility that utilizes an advanced metering infrastructure that allows a customer to access the customer's *electrical or gas* consumption data, *as defined*, to ensure that the customer has an option to access that data without ~~relinquishing personally identifiable~~

~~information to a 3rd party. The bill would require an electrical corporation, gas corporation, or local publicly owned electric utility to keep such consumption data securely and not accessible by a 3rd party, except as provided being required to agree to the sharing of his or her personally identifiable information, including electrical or gas consumption data, with a 3rd party. The bill would prohibit a local publicly owned electric utility, electrical corporation, or gas corporation from sharing, selling, disclosing, or otherwise making accessible to any 3rd party a customer's electrical or gas consumption data, except as specified, and would require those utilities to use reasonable security procedures and practices to protect a customer's electrical and gas consumption data from unauthorized access, destruction, use, modification, or disclosure.~~

(2) Under existing law, a violation of any provision of the Public Utilities Act, or of any of the rules or orders issued under the act, is a crime.

Because the provisions of this bill are within the act, a violation of these provisions would impose a state-mandated local program by creating a new crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 387.7 is added to the Public Utilities
2 Code, to read:
3 387.7. (a) *For purposes of this section, "electrical consumption*
4 *data" means data about a customer's electrical usage that is made*
5 *available as part of an advanced metering infrastructure.*
6 (b) A local publicly owned electric utility that utilizes an
7 advanced metering infrastructure that allows a customer to access
8 the customer's ~~electric~~ *electrical* consumption data shall ensure
9 that the customer has an option to access that data without
10 ~~relinquishing personally identifiable information, including electric~~
11 ~~consumption data, to a third party.~~

~~(b) Unless a customer chooses to access the customer's electric consumption data, made available as part of an advanced metering infrastructure, from a third party after being given the option described in subdivision (a), that data shall be securely kept by the local publicly owned electric utility and shall not be accessible by a third party. being required to agree to the sharing of his or her personally identifiable information, including electrical consumption data, with a third party. The local publicly owned electric utility shall not partner with any third party that facilitates access to electrical consumption data that provides an incentive or discount to the customer for accessing their electrical consumption data.~~

(c) (1) A local publicly owned electric utility shall not share, sell, disclose, or otherwise make accessible to any third party a customer's electrical consumption data, except as provided in paragraph (2).

(2) A local publicly owned electric utility may make a customer's electrical consumption data accessible to a third party in either of the following circumstances:

(A) The customer was given the option, pursuant to subdivision (b), to access electrical consumption data without being required to share personally identifiable information with a third party, the customer has declined that option, and the customer has instead chosen, without revoking that choice, to access his or her electrical consumption data from that third party.

(B) The electrical consumption data is accessed or shared by a third party or local publicly owned electric utility with the customer's prior express written consent for a demand response program that manages the customer's consumption of electricity in response to electrical supply or pricing conditions.

(d) A local publicly owned electric utility shall use reasonable security procedures and practices to protect a customer's electrical consumption data from unauthorized access, destruction, use, modification, or disclosure.

(e) (1) Nothing in this section shall preclude a local publicly owned electric utility from using customer aggregate electrical consumption data for analysis, reporting, or program management if all information has been removed regarding the individual identity of a customer.

1 (2) *Nothing in this section shall preclude a local publicly owned*
2 *electric utility from disclosing a customer's electrical consumption*
3 *data to a third party for billing purposes.*

4 SEC. 2. Section 393 of the Public Utilities Code is repealed.

5 SEC. 3. Section 714 is added to the Public Utilities Code, to
6 read:

7 714. (a) *For purposes of this section, "electrical or gas*
8 *consumption data" means data about a customer's electrical or*
9 *natural gas usage that is made available as part of an advanced*
10 *metering infrastructure.*

11 (b) *An electrical or gas corporation that utilizes an advanced*
12 *metering infrastructure that allows a customer to access the*
13 *customer's electric electrical and gas consumption data shall ensure*
14 *that the customer has an option to access that data without*
15 *relinquishing personally identifiable information, including electric*
16 *or gas consumption data, to a third party.*

17 ~~(b) Unless a customer chooses to access the customer's electric~~
18 ~~or gas consumption data, made available as part of an advanced~~
19 ~~metering infrastructure, from a third party after being given the~~
20 ~~option described in subdivision (a), that data shall be securely kept~~
21 ~~by the electric or gas corporation and shall not be accessible by a~~
22 ~~third party. being required to agree to the sharing of his or her~~
23 ~~personally identifiable information, including electrical or gas~~
24 ~~consumption data, with a third party. The electrical corporation~~
25 ~~or gas corporation shall not partner with any third party that~~
26 ~~facilitates access to electrical or gas consumption data that~~
27 ~~provides an incentive or discount to the customer for accessing~~
28 ~~their electrical or gas consumption data.~~

29 (c) (1) *An electrical corporation or gas corporation shall not*
30 *share, sell, disclose, or otherwise make accessible to any third*
31 *party a customer's electrical or gas consumption data, except as*
32 *provided in paragraph (2).*

33 (2) *An electrical corporation or gas corporation may make a*
34 *customer's electrical or gas consumption data accessible to a third*
35 *party in either of the following circumstances:*

36 (A) *The customer was given the option, pursuant to subdivision*
37 *(b), to access electrical or gas consumption data without being*
38 *required to share personally identifiable information with a third*
39 *party, the customer has declined that option, and the customer has*

1 *instead chosen, without revoking that choice, to access his or her*
2 *electrical or gas consumption data from that third party.*

3 *(B) The electrical or gas consumption data is accessed or shared*
4 *by a third party, electrical corporation, or gas corporation with*
5 *the customer's prior express written consent for a demand response*
6 *program that manages the customer's consumption of energy in*
7 *response to supply or pricing conditions.*

8 *(d) An electrical corporation or gas corporation shall use*
9 *reasonable security procedures and practices to protect a*
10 *customer's electrical or gas consumption data from unauthorized*
11 *access, destruction, use, modification, or disclosure.*

12 *(e) (1) Nothing in this section shall preclude an electrical*
13 *corporation or gas corporation from using customer aggregate*
14 *electrical or gas consumption data for analysis, reporting, or*
15 *program management if all information has been removed*
16 *regarding the individual identity of a customer.*

17 *(2) Nothing in this section shall preclude an electrical*
18 *corporation or gas corporation from disclosing a customer's*
19 *electrical or gas consumption data to a third party for billing*
20 *purposes.*

21 SEC. 4. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.